DOCUMENT RESUME

ED 357 443 EA 024 858

AUTHOR	Fulton, Mary; Long, David
TITLE	School Financial Litigation: A Historical Summary.
INSTITUTION	Education Commission of the States, Denver, Colo.
SPONS AGENCY	Andrew W. Mellon Foundation, New York, N.Y.
PUB DATE	Apr 93
NOTE	44p.
AVAILABLE FROM	ECS Distribution Center, 707 17th Street, Suite 2700, Denver, CO 80202-3427 (Stock No. SF-93-1; $5 plus postage and handling; quantity discounts).
PUB TYPE	Legal/Legislative/Regulatory Materials (090)
EDRS PRICE	MF01/PC02 Plus Postage.
DESCRIPTORS	Constitutional History; *Constitutional Law; *Court Litigation; *Educational Equity (Finance); Educational Finance; Elementary Secondary Education; *Equal Education; School Law; State Courts
IDENTIFIERS	Rodriguez v San Antonio Independent School Dist; Serrano v Priest

ABSTRACT

Two landmark cases, "Serrano v Priest" (1971) and "Rodriguez v San Antonio" (1973) catapulted school finance litigation onto the political and educational scene. In their aftermath, 11 state supreme courts had ruled school funding systems unconstitutional while 12 state systems have been upheld as constitutional. Many plaintiffs have argued that states rely too heavily on local property taxes and distribute funding unequally. Defendants often argue that local control is the cause of funding disparities and that state educational clauses do not require equalizing per student spending. A 19-page chart is provided for relevant cases before state supreme courts that includes a brief history of case names, court activity, and plaintiffs. The chart also details court rulings on constitutionality under state equal protection and educational clauses. A high degree of legal scrutiny that shifts the burden of proof to states often exists where plaintiffs argue that funding inequalities violate a constitutional right to education. The chart includes a brief historical and contextual analysis describing the particular claims of each plaintiff and subsequent legal developments. (TEJ)

****
* Reproductions supplied by EDRS are the best that can be made *
* from the original document. *
****

ED357443

School Finance Litigation: A Historical Summary

Education Commission of the States

EA 024 858

U.S. DEPARTMENT OF EDUCATION
Office of Educational Research and Improvement
EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)

☑ This document has been reproduced as received from the person or organization originating it.

☐ Minor changes have been made to improve reproduction quality.

• Points of view or opinions stated in this document do not necessarily represent official OERI position or policy

"PERMISSION TO REPRODUCE THIS MATERIAL HAS BEEN GRANTED BY
S.F. Walker

TO THE EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)."

BEST COPY AVAILABLE

SCHOOL FINANCE LITIGATION: A HISTORICAL SUMMARY

Prepared by Mary Fulton
Education Commission of the States
and
David Long
Attorney at Law
State Bar of California

April 1993

This publication was supported by a grant from the Andrew W. Mellon Foundation.

Copies of this book are available for $5 from the ECS Distribution Center, 707 17th Street, Suite 2700, Denver, Colorado 80202-3427, 303-299-3692. Ask for No. SF-93-1.

© Copyright 1993 by the Education Commission of the States (ECS). All rights reserved.

The Education Commission of the States is a nonprofit, nationwide interstate compact formed in 1965. The primary purpose of the commission is to help governors, state legislators, state education officials and others develop policies to improve the quality of education at all levels.

Forty-nine states, the District of Columbia, American Samoa, Puerto Rico and the Virgin Islands are members. The ECS offices are at 707 17th Street, Suite 2700, Denver, Colorado 80202-3427.

It is the policy of ECS to take affirmative action to prevent discrimination in its policies, programs and employment practices.

Postage and handling charges:

Up to $10	$ 2.50
$10.01-$25.00	$ 3.90
$25.01-$50.00	$ 5.50
$50.01-$100.00	$ 8.00
Over $100.01	$10.50

Generous discounts are available for bulk orders of single publications. They are: 10-24 copies, 10% discount; 25-49 copies, 20% discount; 50+ copies, 30% discount.

TABLE OF CONTENTS

Introduction 1

School Finance Litigation Summary 3

School Finance Litigation Chart 5

INTRODUCTION

School finance litigation appeared on the political and education scene more than 20 years ago with the landmark cases, *Serrano vs. Priest* in California (1971) and *Rodriguez vs. San Antonio* (1973) in Texas. Since then, numerous court cases have challenged education finance systems. Eleven state supreme courts have ruled funding systems unconstitutional (Arkansas, California, Connecticut, Kentucky, Montana, New Jersey, Tennessee, Texas, Washington, West Virginia and Wyoming). Another 12 state systems have been upheld as constitutional (Arizona, Colorado, Georgia, Idaho, Maryland, Michigan, New York, Ohio, Oklahoma, Oregon, Pennsylvania and Wisconsin).

Many cases have claimed that states rely too heavily on local property taxes to fund education and fail to distribute state education aid equitably and adequately. Plaintiffs often contend that spending levels are related to a district's property wealth which determines the quality of education offered. Defendants, on the other hand, sometimes argue that local control is the cause of spending disparities, that the state's constitution's education clause does not require equal expenditures per child and that every district has sufficient funds to meet basic requirements.

Finding patterns among these cases is difficult. School funding decisions are influenced by the court's interpretation of constitutional clauses, the evidence presented, existing case law and the jurisdiction the court defines for itself.

About the Chart

The following chart summarizes state supreme court decisions regarding the constitutionality of school finance systems over the past two decades. The chart also is a tool to identify common elements and differences among the cases listed and those filed subsequently. Included is information on dates, procedural history, case names, plaintiffs and their claims, rulings and the context of the cases.

The column called *Case/Plaintiffs and Procedural History* indicates the case name, chronology of court activity and the plaintiffs involved in the lawsuit.

The *Ruling* column identifies the basis on which the finance system was upheld as constitutional or ruled unconstitutional. Lawsuits generally are brought on the grounds that a state's funding mechanism violates the equal protection clause of the state constitution and/or state constitutional provisions related to education. Because equal protection clauses do not prohibit unequal treatment, only *unjustified* unequal treatment, a state may be able to

justify its funding system even if spending disparities between districts exist (in the interestof local control, for example). Plaintiffs have used the language of education clauses, e.g., "thorough and efficient," "uniform and basic," to argue that disparities in available resources or lack of adequate funds do not allow the state to provide such an education, therefore violating the constitution. Additionally, plaintiffs have argued that education is a fundamental right. This claim sometimes leads to a higher level of legal scrutiny by the court and places the burden on the state to defend its financing scheme. If the court does not apply strict scrutiny, the state typically need only provide a rational and reasonable basis for the way it distributes funds, e.g., to preserve local control.

The last column, *History/Context/Developments*, briefly describes particular claims made by plaintiffs, case details and related developments.

This chart is not meant to be exhaustive, but should provide a basis for readers who want to examine the history of school finance litigation. Please contact Mary Fulton at ECS, 303-299-3679, with comments or questions.

In March 1993, the Montgomery County (Alabama) Circuit Court ruled the state's entire education system unconstitutional, similar to the Kentucky decision described in this report. Because the decision did not occur at the state supreme court level, it is not included in this chart. However, the sweeping nature of the ruling makes the case worth noting. The state of Alabama will not seek an appeal, but has been ordered by the court to "reinvent" the state education system. The particulars of the case are:

Case name: *Harper vs. Hunt*

Year filed: 1990 and 1991 (two cases were combined)

Plaintiffs: The Alabama Coalition for Equity filed a lawsuit on behalf of 22 property-poor school districts, parents and students. The American Civil Liberties Union also filed a lawsuit requesting (and receiving) class-action status to represent all children attending property-poor schools in Alabama.

Ruling: Alabama's education system violates the state constitution's education provision by not providing equal and adequate educational opportunities to all children in the state.

Education Commission of the States

SCHOOL FINANCE LITIGATION SUMMARY

Fall 1992

State	Equal Protection		Education Clause		Fundamental Right[1]	Rational Basis[2]
	Constitutional	Unconst.	Constitutional	Unconst.		
Arizona (1973)	X		X		yes	X
Arkansas (1983)		X				No RB
California (1971)		X			yes	
Colorado (1982)	X				no	X
Connecticut (1977)		X		X	yes	
Georgia (1981)	X		X		no	X
Idaho (1975)	X		X		no	X
Kentucky (1989)		X		X	yes	
Maryland (1983)	X		X			X
Michigan (1984)	X		X		no	X
Montana (1989)				X		X
New Jersey (1973)		X		X		
(1989)				X certain poorer districts		
New York (1982)	X		X		no	X
Ohio (1979)	X		X		no	
Oklahoma (1987)			X			X
Oregon (1976)	X		X			X
(1991)			X			
Tennessee (1993)		X				X
Texas (1989)*				X		X
Washington (1974)			X			X
(1978)				X		X
West Virginia (1979)		X		X	yes	
Wisconsin (1989)			X		yes	X
Wyoming (1980)		X		X	yes	X

1. Court found education to be a fundamental right.
2. Court found a rational basis for funding system.

* 1973 Texas case not included because tried in federal courts.

Mary Fulton
Education Commission
of the States

David Long
Attorney at Law
State Bar of California

SCHOOL FINANCE LITIGATION CHART

State	Case/Plaintiffs & Procedural History		Ruling	History/Context/Developments
AZ	1973, St. Supreme Ct. (110 Ariz. 88, 515, P.2d 590) 1972, County Superior Ct. 1971, filed	**Shofstal v. Hollins** Plaintiffs: students & parents from Maricopa County	**Upheld as constitutional** * Education fundamental right * "Rational & reasonable basis" test sufficient to uphold system * Taxpayers not unconstitutionally discriminated against by higher tax burdens	* Trial court granted summary judgment that finance system discriminated against Maricopa County taxpayers under equal protection clause; judgment took effect at close of 1974 legislative session; effective July 1, 1974, legislature repealed entire s hool financing statutory framework * Trial court denied students' claim of denial of right to an education * State Supreme Court reversed trial court's order to revise finance system and upheld system; remanded case for further proceedings * Added pupil weighting element to existing foundation program (1974, 1980 reforms)
AR	**1983**, St. Supreme Ct. (279 Ark. 340, 651 SW2d 90) 1981, St. Chancery Ct. 1977, filed	**Alma School District No. 3 v. Dupree** Plaintiffs: 11 school districts, students from one of the districts & members of the local school boards	**Ruled unconstitutional** * Under equal protection provision, tax base-related disparitites in financing system bear no rational relationship to education needs of individual districts * Local control not promoted by wealth-related disparities * Bare and minimal sufficiency in poor districts and generously endowed education programs in others is not equal education opportunity * Education clause requiring "general, suitable and efficient system of free public schools" reinforces application of equal protection clause to school finance system * Constitutional authority for districts to levy taxes does not authorize violation of equal protection	* Plaintiffs claimed inequities in distribution of funds & educational opportunities * Plaintiffs complained about state not providing aid for capital construction, strict limit on bonded indebtedness, method of funding vocational education * Court findings: (1) higher priority to be placed on equity than local control, (2) disparities in staff, class size, curriculum, remedial services, facilities, material, equipment * After circuit court invalidated finance system, legislature established Governor's Commission on Public School Finance to develop proposals for more valid finance system to be implemented in '83 session * Commission recommended: incorporate categorical programs into general aid system through pupil weights; local fiscal capacity to include measure of income & property wealth * Legislature passed statewide education reform package in 1983; part of package combined existing foundation program with pupil weighting system

SCHOOL FINANCE LITIGATION CHART

State	Case/Plaintiffs & Procedural History		Ruling	History/Context/Developments
CA	**1971**, St. Supreme Ct. (5 Cal.3d 584, 487 P.2d 1241) 1969, St. Superior Ct. (dismissed) 1968, filed	**Serrano v. Priest** Plaintiffs: students & parents from LA County school districts	**Ruled unconstitutional** * Dismissal of complaint reversed and case remanded for trial * Court could properly hear claim that education finance system makes the education quality a function of wealth of child's parents and neighbors as measured by the district tax base (fiscal neutrality standard) * Under federal and state equal protection provisions, education is a fundamental interest and dist. wealth a suspect classification; therefore, resulting fiscal inequalities subject to strict scrutiny to see if necessary to achieve compelling state interest	* Landmark case; court decision based partly on "fiscal neutrality" standard; provided courts with "judicially manageable" standard to determine constitutionality of school finance systems * First state public school finance system declared unconstitutional; first major school finance case filed in state rather than federal court * 1972, legislature increased state aid as part of new finance formula; moved to foundation program
CA	**1976**, St. Supreme Ct. (18 Cal.3d 728, 557 P.2d 929) 1974, St. Superior Ct.	**Serrano v. Priest II**	**Ruled unconstitutional** * Affirmed trial court finding that school finance system was unconstitutional under equal protection provisions of state constitution, unaided by 14th Amendment * Found that education quality remained function of local school district wealth * Affirmed trial court judgment that wealth-related disparities between school districts in per-pupil expenditures must be reduced to insignificant differences, i.e., less than $100 per pupil	* 1974, trial court declared current financing system unconstitutional despite 1972 increase in state aid; quality of education remained function of local school district wealth * Legislature unable to implement Assembly Bill 65 (1977) — new finance formula measure — due to Proposition 13 (1978) which limited property tax rates to 1% of full cash value of real taxable property & reduced available revenue
CA	**1986**, Appellate Ct.	**Serrano v. Priest III**	**Upheld as constitutional**	* State had complied with Serrano II mandate to improve equity - 95% of school districts fell within maximum expenditure disparity of $200 per pupil in 1982-83

SCHOOL FINANCE LITIGATION CHART

State	Case/Plaintiffs & Procedural History		Ruling	History/Context/Developments
CO	**1982**, St. Supreme Ct. (649 P.2d 1005) 1979, District Ct. 1977, filed	**Lujan v. Colorado State Board of Education** Plaintiffs: 68 students from 16 low-wealth districts	**Upheld as constitutional** * Reversed district court decision which held school finance system unconstitutional * Did not violate education clause requirement that state must establish and maintain "thorough and uniform system of free schools" or equal protection provisions of the Colorado or U.S. Constitutions * Wealth not suspect classification and education not fundamental right * Local control furthered by education finance system * Education clause does not mandate equal per-pupil expenditure	* Suit attacked use of flat grants & Authorized Revenue Base (ARB) — sum of state equalization aid and local property tax authorized for a district * Supreme court reversed district court ruling that finance system was unconstitutional * Local control viewed as rational basis for existing disparities & as legislative purpose of education financing statutes * Education clause did not mandate equal per-pupil expenditure * Legislature enacted HB1341, Public School Finance Act of 1988; moved from guaranteed yield to foundation program with 8 district "setting categories"; pending lawsuit was withdrawn * Legislature established Colorado Commission on School Finance to review, analyze and evaluate HB1341
CT	**1977**, St. Supreme Ct. (172 Conn. 615, 376 A.2d 359) 1974, St. Superior Ct. (31 Conn. Supp. 377, 332 A.2d 813) 1973, filed	**Horton v. Meskill** Plaintiffs: students in Canton, CT	**Ruled unconstitutional** * Affirmed trial court judgment that system violated equal protection and education provisions ("free public elementary and secondary school" and "General Assembly shall implement this principle by appropriate legislation") * Education is a fundamental right under equal protection clause * State must assure all public school students substantially equal education opportunity * Not "appropriate legislation" for state to rely primarily on local property tax base without regard to local ability to finance education program	* Court declared it was not appropriate to rely on local property tax to finance education without regard to local ability to support adequate education; also caused tax disparities * 1978 — trial court set May 1, 1979, deadline for enactment of constitutional plan for financing schools * Public Act 79-128 enacted April 1979, included guaranteed tax base formula & minimum expenditure requirement, replaced flat grant program
CT	**1982**	**Horton v. Meskill II**		* Municipalities were denied intervention in remedial proceedings

SCHOOL FINANCE LITIGATION CHART

State	Case/Plaintiffs & Procedural History		Ruling	History/Context/Developments
CT	**1985,** St. Supreme Ct. (195 Conn. 24, 486 A.2d 1099)	**Horton v. Meskill (Horton III)**	**Partially upheld (ruled constitutional)** * Court upheld constitutionality of basic design of state education finance system adopted in 1979 in response to Horton I (guaranteed tax base with minimum expenditure requirement) * Education finance plans must be strictly scrutinized using a 3-step process: plaintiffs must make prima facie case showing education disparities more than *de minimis*; state burden to justify such disparities as advancing legitimate state policy and not so great as to be unconstitutional — finance plan as whole must further policy of providing significant equalizing state support. * Agreed continuing expenditure disparities required strict scrutiny, but reversed trial court finding that post-1979 statutes were unconstitutional because trial court had not applied 3-step test noted above; remanded for trial court's application of this test to give additional parties opportunity to participate	* Plaintiffs challenged Public Act 79-128 (1979) on basis of long phase-in period, "hold-harmless" clause for wealthy towns and continued disparities in local expenditure * In 1986, State Supreme court remanded to superior court with guidelines for determining constitutionality of subsequent amendments * Neither side continued to pursue case * 1989, legislature passed education enhancement act — increased education spending and created new finance formula (SB539) which replaced guaranteed tax base with foundation formula
GA	**1981**, St. Supreme Ct. (248 Ga. 632, 285 S.E.2d 156) 1981, St. Superior Ct. 1974, filed	**McDaniel v. Thomas** Plaintiffs: members of 3 local school boards and students	**Upheld as constitutional** * Georgia Supreme Court reversed trial court decision which held finance system unconstitutional based on wealth-related expenditure disparities * Education not a fundamental right for equal protection analysis and inequalities in finance system judged by rational relationship test * Agreed with plaintiffs that serious disparities existed and more should be done to equalize opportunity, but concluded system not invidiously discriminatory, "for present" solutions must come from legislature * "Adequate education" requirement of constitution's education clause does not require state to equalize educational opportunity between districts; interpretation up to legislature	* State Supreme Court reversed trial court decision which held finance system unconstitutional — violated fiscal neutrality standard * Equal protection language not present in education section of state constitution, therefore, such analysis not applicable * Preservation of local control viewed as rational basis supporting finance system * Although system was upheld, court concluded legislature should take steps to equalize educational opportunities, legislature's role to interpret mandate of "adequate" education as stated in education clause * The 1985 Quality Basic Education (QBE) law, a state education reform act, included funding equalization measures, dramatically increased state and local contribution to education

SCHOOL FINANCE LITIGATION CHART				
State	Case/Plaintiffs & Procedural History		Ruling	History/Context/Developments
ID	**1975**, St. Supreme Ct. (96 Idaho 793, 537 P.2d 635) 1973, St. District Ct. 1972, filed	**Thompson v. Engleking** Plaintiffs: students & parents from Pocatello School District No. 25	**Upheld as constitutional** * In 3-2 decision, State Supreme Court reversed trial court ruling that system was unconstitutional because it failed to provide uniform system of public schools * Affirmed trial court conclusion that equal protection clause not violated since education not considered fundamental interest; unequal system serves rational state interest of furthering local control	* Reversed 1973 trial court decision that finance system violated state constitution education clause

SCHOOL FINANCE LITIGATION CHART

State	Case/Plaintiffs & Procedural History		Ruling	History/Context/Developments
KY	**1989**, St. Supreme Ct. (790 S.W.2d 186) 1988, Circuit Ct. 1985, filed	**The Council for Better Education, Inc. v. Rose** Plaintiffs: 66 low-wealth & rural districts	**Ruled unconstitutional** * Held entire state system of common schools, including district boundaries, governance, school finance, violates state constitution's education clause mandating "efficient system of common schools throughout the state" * Education fundamental constitutional right * An efficient system of schools must be substantially uniform and provide equal opportunities for adequate education for all students * Local tax efforts may not substitute for providing an adequate, equal and substantially uniform state education system * Adequate education must have as its goal to provide children with seven specific capacities * Legislature is solely responsible for establishing, maintaining and funding common schools	* Initiated as school finance case in which plaintiffs claimed wide expenditure disparities existed between districts * Landmark decision declaring entire state education system unconstitutional * School system underfunded & inadequate; cited: poor national & regional rankings in pupil expenditure & achievement, low teacher salaries, high dropout rates * Minimum foundation & power equalization program allowed wide variations in financial resources, resulting in unequal educational opportunities * Legislature permitted local districts to levy optional taxes, exacerbating inequities; great local waste & mismanagement existed * Struck down: school finance system; laws creating school districts, school boards, state education department; laws & regulations concerning teacher certification & school construction * Established task force of legislators & representatives from governor's office to devise plan to provide adequate funding for more equitable school system by mid-July 1990 * Three committees formed — curriculum, finance, governance — headed by outside consultants * 1990 education and tax reform bill (HB940) passed March & signed by governor in April * HB940 included: performance-based system of rewards & sanctions for schools & teachers, reorganization of state department of education, limit on amount districts could spend, revision of foundation & power equalization program, higher minimum mill rate

SCHOOL FINANCE LITIGATION CHART

State	Case/Plaintiffs & Procedural History		Ruling	History/Context/Developments
MD	**1983**, St. Ct. of Appeals (295 Md. 597, 458 A.2d 758) 1981, Circuit Ct. 1979, filed	**Somerset County Board of Education v. Hornbeck** Plaintiffs: members of local school boards, superintendents, mayor of Baltimore, students & parents	**Upheld as constitutional** * Reversed trial court which held finance system violated state constitution's equal protection and education provisions * Education clause requirement of "thorough and efficient" school system only requires efforts to minimize impact of demographic and environmental disadvantages on children; does not require uniformity of per-pupil expenditures * Under equal protection analysis strict or heightened scrutiny rejected system considered rationally related to effectuating local control over schools	* State court rejected claims of municipal and educational overburden; education clause did not mandate equal per-pupil funding or expenditure * State court reversed trial court's decision which held the finance system violated education clause * Trial court recognized: poor districts remained underfunded while no spending limit was placed on other districts; claims of municipal & educational overburden; variation of property wealth created spending disparities; low percent of state contribution to education, most of which was unequalized
MI	**1984**, St. Ct. of Appeals (133 Mich. App. 132, 348 N.W.2d 303) 1983, Circuit Court 1982, filed	**East Jackson Public Schools v. State of Michigan** Plaintiffs: 20 school districts & students	**Upheld as constitutional** * Education not a fundamental right under Michigan Constitution and finance system does not violate state equal protection clause * Education clause requiring a system of free public education is not synonymous with providing equal financial support of schools	* Plaintiffs alleged reliance on state equalized valuation (SEV) of taxable property allows for disparities; state does not equalize for expenditure differences which result in unequal education programs * Court held that to provide free public education is not synonymous with providing equal financial support

SCHOOL FINANCE LITIGATION CHART

State	Case/Plaintiffs & Procedural History		Ruling	History/Context/Developments
MT	**1989**, St. Supreme Ct. (769 P.2d 684) 1988, District Ct.	**Helena Elementary School District No. 1 v. State of Montana** Plaintiffs: 65 school districts	**Ruled unconstitutional** * Large differences in per-pupil spending unrelated to "educationally relevant factors" violate language of education clause of state constitution guaranteeing "equality of education opportunity" * State school accreditation standards are minimums that do not fully define quality education, constitutional rights of students or state responsibilities for funding schools	* Court held: foundation program relies too heavily on property tax levies & denies equal educational opportunity to students in poor districts * 1989, in compliance with court order, legislature passed bill (HB28) during special session which revised school finance formula * HB28: appropriated $375 million for K-12 in FY91; increased state support by adopting foundation schedules $67.2 million higher than FY89; instituted local levy cap (up to 35% of foundation amount) * HB28 financed by mandatory 95-mill levy (previously 45 mills), 5% surtax on individual and corporate income taxes and reallocation of other tax revenues * Plaintiffs filed brief: (1) contended that ruling extends beyond general fund to capital outlay & transportation which HB28 does not address; (2) argued HB28 is not permanent, stable funding source, does not address teacher retirement inequities and won't adequately reform per-student spending inequities; (3) requested court to extend declaration of constitutionality of enacted provisions until July 1, 1991, to allow for HB28 to go into effect, collect more accurate data and allow legislature more time to address issues
NJ	**1973**, St. Supreme Ct. (62 N.J. 473, 303 A.2d 273) 1972, State Superior Ct. (118 N.J. Super. 223, 287 A.2d 187) 1970, filed	**Robinson v. Cahill** Plaintiffs: mayors, members of city councils & school boards of 5 cities, a student and a taxpayer	**Ruled unconstitutional** * Constitutional guarantee embraces that education opportunity needed in contemporary setting to equip children for roles as citizens and competitors in the labor market * State failed to insure that all children had equal opportunity to obtain such education * State failed to define its obligation to provide thorough and efficient education	* Plaintiffs asked for: finance system to be ruled unconstitutional and revised; district boundaries to be redrawn; and property tax system to be ruled unconstitutional for funding public schools * Plaintiffs claimed finance system violated education clause, placed unequal tax burden on low property value districts, violated fiscal neutrality standard, racially discriminated * First case to rule finance system violated education clause of state constitution; did not provide "thorough & efficient" education system * 1975, in compliance with court order to establish reforms, legislature enacted Public School Education Act (S.1516) * 1976, funds for public schools were enjoined and schools closed for 2 weeks after legislature failed to assure full funding for new act by July 1; legislature enacted income tax to fund act, injunction lifted

SCHOOL FINANCE LITIGATION CHART

State	Case/Plaintiffs & Procedural History		Ruling	History/Context/Developments
NJ	**1989**, St. Supreme Ct. (overturned system) (119 N.J. 287, 575 A.2d 359) 1989, St. Board of Education Decision (upheld decision) 1989, State Commissioner of Education Division (upheld system) 1988, Administrative Law Judge Decision (recommended system be held unconstitutional) 1985, State Supreme Court (100 N.J. 269, 495 A.2d 376) (remanded with directions to administrative forum for trial) 1984, St. Superior Ct., Appellate Division (reversed dismissal) (195 N.J.Super. 59, 477 A.2d 1278) 1983, St. Superior Court (dismissal for failure to exhaust administrative remedies in the Department of Education) 1981, filed	**Abbott v. Burke** Plaintiffs: students in 4 urban districts	**Ruled unconstitutional** * Spending disparities condemned in Robinson v. Cahill worse than before finance act enacted * Certain poorer urban districts do not provide thorough and efficient education and finance system unconstitutional under education clause as applied to 28 poorer urban school districts * Poorer disadvantaged students must be given chance to compete with advantaged students * State must guarantee that poorer urban districts have per-pupil expenditures approximately equal to average of property-rich suburban districts; level must not depend on budgeting and taxing decisions of poorer districts * Poorer urban districts must offer elements over and above those found in more affluent districts; funding level must be adequate to provide for special education needs of poorer urban districts * Minimum aid provisions that benefit wealthy districts are unconstitutional * Poorer children may not be permanently consigned to inferior education	* Plaintiffs contended Public School Finance Act of 1975 was not properly funded and allowed financial disparities to remain excessive; state argued local school districts guilty of educational mismanagement * 1983, superior court dismissed suit; 1984, appellate court ruled in favor of the plaintiffs; 1985, state supreme court reversed appellate court decision & remanded to administrative law judge * State Supreme Court ruled that administrative remedies must be exhausted before court could rule on merits of suit * August 1988, administrative law judge ruled school finance system unconstitutional — violated education clause; decision forwarded to commissioner of education who upheld state's position * Supreme Court ruled finance system unconstitutional as applied to poorer urban districts; 28 districts identified * Court addressed areas of categorical, transportation, pension, capital outlay aid * Court recognized deficiencies in curricula; need for better services and programs, including early childhood * Dismissed deficiencies in education being primarily related to mismanagement rather than per-pupil expenditure differences * July 1990, legislature enacted Quality Education Act (QEA) of 1990, based on governor's recommendations * Act allocated $1 billion in additional state aid (funded through income and sales tax increases); phased-out minimum aid to wealthy districts; ordered wealthy districts to absorb costs for teacher pensions; set high foundation level ($6,835 for elementary & additional amounts for secondary for 1991-92); established "special needs" districts, accountability measures * QEA I revised — QEA II reduced state education aid, provided local tax relief, reduced base foundation level, altered method to determine "fair share" of 30 special needs districts, added more restrictive budget caps, delayed local district assumption of teacher pension & social security costs

SCHOOL FINANCE LITIGATION CHART

State	Case/Plaintiffs & Procedural History		Ruling	History/Context/Developments
NY	**1982**, St. Ct. of Appeals (57 N.Y.2d 27, 439 N.E.2d 359) 1981, Appellate Division of St. Supreme Ct. (443 N.Y.S.2d 843, 83 A.D.2d 217) 1978, St. Supreme Ct. (94 Misc.2d 466, 408 N.Y.2d 606) 1974, filed	**Board of Education, Levittown v. Nyquist** Plaintiffs: boards of education & students from 27 districts & 4 large cities	**Upheld as constitutional** * Under equal protection provision, education not fundamental right or interest; strict scrutiny and intermediate review standard rejected * Rational relationship found between finance system and legitimate state purpose of local control of education * Education provision requiring "maintenance and support of free common schools wherein all the children of this state may be educated" requires only minimal acceptable facilities and services and not equal or substantially equivalent education	* Plaintiffs from large urban districts claimed municipal and educational overburden * State court of appeals reversed two lower court decisions * Court recognized existence of significant disparities; "judicially imprudent" to rule unconstitutional, partly due to lack of proper remedy * No requirement for education to be equal in every district; must only provide minimal, acceptable facilities & services
OH	**1979**, St. Supreme Ct. (58 Ohio St.2d 368, 390 N.E.2d 813) 1978, St. Ct. of Appeals (10 Ohio Ops.3d 26) 1977, St. Ct. of Common Pleas 1976, filed	**Board of Education of the City School District of Cincinnati v. Walter** Plaintiffs: Cincinnati board of education, district superintendent, parents, students	**Upheld as constitutional** * Education not fundamental right for equal protection provision; local control rational basis supporting finance system * Since formula establishes funding floor sufficient to meet state minimum standards, legislature did not abuse its responsibility to establish a "thorough and efficient" education system	* Plaintiffs alleged: burden on districts to raise excessive portion of education funds to meet requirements — dependent on voter approval of tax levies, rather than on cost to provide thorough & efficient education * Plaintiffs claimed municipal & educational overburden * Plaintiffs challenged fiscal penalty — reduced state aid for district's inability to meet mandated education standards * Supreme court reversed county court decision * Education opportunity not absolutely denied

SCHOOL FINANCE LITIGATION CHART

State	Case/Plaintiffs & Procedural History		Ruling	History/Context/Developments
OK	**1987,** St. Supreme Ct. (746 P.2d 1135) 1980, filed	**Fair School Finance Council of Oklahoma, Inc. v. State** Plaintiffs: 38 school districts, students, taxpayers	**Upheld as constitutional** * Equal expenditures not mandated under constitutional requirement of "system of free public schools wherein all children of the state may be educated"; only requires basic, adequate education according to standards set by State Board of Education * Fact that districts not permitted to increase local tax rates did not make wealth-related expenditure disparities subject to challenge under equal protection clause of U.S. Constitution * No strict scrutiny of finance system under state equal protection formula * Aid formula designed to minimize effects of unequal assessment practices	* Constitutional limit on property tax level and other restrictions complicated property-poor district's ability to raise adequate amount to support education services; plaintiffs claimed great financial disparities existed among districts * Flat grant program provided same amount of aid to all districts; foundation program failed to close gaps * 1981, legislature revised finance system — pupil-weighting scheme using foundation & guaranteed tax base; 1982, added $150 million to finance system
OR	**1976,** St. Supreme Ct. (276 Or. 9, 554 P.2d 139) 1975, Circuit Ct. 1972, filed	**Olsen v. Oregon** Plaintiffs: class action suit on behalf of all public school children in state except in high-wealth districts; taxpayers	**Upheld as constitutional** * Under equal protection analysis, state's interest in maintaining local control found to outweigh detriment to education caused by unequal expenditures * Education clause requirement of uniform and general system of common schools only requires minimum education opportunities	* Plaintiffs claimed flat grant program had disequalizing effect, finance system violated fiscal neutrality standard * Court ruled the interest impinged upon — educational opportunity — was outweighed by objective to maintain local control
OR	**1991,** St. Supreme Ct. 1990, Circuit Court 1990, filed	**Coalition for Education Equity v. Oregon** Plaintiffs: 56 school districts, parents, property owners	**Upheld as constitutional** * Funding system does not violate education clause * Constitution upholds validity of property-tax-funded schools, disparities notwithstanding	* 1987, public approved constitutional amendment to establish "safety net" that allows school district unable to raise additional money through tax levies to operate at previous year's funding level * Court claimed approval of "safety net" showed public's acceptance of disparities * Circuit court referred back to 1976 decision which ruled state not required to finance schools equitably * Plaintiffs pointed to financial disparities between property-rich districts with high assessed property values and relatively low taxes, and poor districts which must levy high taxes to raise same amount of money

SCHOOL FINANCE LITIGATION CHART

State	Case/Plaintiffs & Procedural History		Ruling	History/Context/Developments
TN	**1993,** St. Supreme Ct 1992, St. Ct of Appeals 1991, Davidson Cty Chancery Ct 1988, Filed	**TN Small School Systems et al. v. McWherter et al.** Plaintiffs: 77 small, rural school districts	**Ruled unconstitutional** * Disparities in available education resources violate constitutional requirement to provide "substantially equal education opportunities to all students" * Affirmed Chancery Court decision that finance system was unconstitutional; reversed Court of Appeals decision that overturned lower court ruling	* Chancery Court ruled funding system unconstitutional because of differences in quality of education offered in wealthier urban areas and poorer rural areas * Supreme Court sent case back to Chancery Court to determine whether revisions to funding system prior to decision comply with court order * Lower court judge stated "evidence indicates a direct correlation between dollars expended and the quality of education a student receives"
TX	**1973,** U.S. Supreme Ct. (411 U.S. 1, 93 S.Ct. 1278, 36 L.Ed.2d 16) 1971, U.S. District Ct. (337 F.Supp. 280) 1968, filed	**San Antonio Independent School District v. Rodriguez** Plaintiffs: parents from Edgewood School District; class action suit on behalf of poor & minority students	**Upheld as constitutional** * In 5-4 decision, U.S. Supreme Court held that under equal protection clause of 14th Amendment to U.S. Constitution, property wealth-related disparities in school spending should not be strictly scrutinized since education not a fundamental interest and children in low-wealth school districts not a suspect class * Education not fundamental interest because not explicitly or implicitly protected by U.S. Constitution * No proof children denied education or opportunity to obtain basic minimal skills * Under minimal equal protection scrutiny, Texas school finance system had rational basis of promoting state interest in preserving local control	* District court ruled finance system unconstitutional under equal protection clause of 14th Amendment — significant disparities in school expenditure existed * U.S. Supreme Court declared system did not deny opportunity to obtain basic minimal skills * Rejected "poor students" or "poor school districts" as suspect class * Cited importance of local control * Historic case which eliminated federal courts as receptive forum to school finance cases since education not fundamental right under and cannot be held to strict scrutiny * Provided guideline for state courts: if importance of education mentioned in state constitution, such language allows for, but does not necessitate, fundamental interest status of education

SCHOOL FINANCE LITIGATION CHART

State	Case/Plaintiffs & Procedural History		Ruling	History/Context/Developments
TX	**1989**, St. Supreme Ct. (777 S.W.2d 391) 1988, Ct. of Appeals (761 S.W.2d 859) 1987, St. District Court 1984, filed	**Edgewood Independent School District v. Kirby** Plaintiffs: 67 districts & 14 families	**Ruled unconstitutional** * School finance system held unconstitutional under education article which requires "general diffusion of knowledge" and "efficient system of public schools" * System neither financially efficient nor does it provide for a general diffusion of knowledge statewide * Districts must have substantially equal access to similar revenues per pupil at similar levels of tax effort	* (1) May 1989, legislature appropriated additional $450 million to equalize districts over 2-year period — court recognized low impact on system that spends $12 billion annually; (2) 1977-84, legislature distributed $1.1 billion in equalization aid; (3) 1984, passed education reform act HB72 — revised school funding system — which created two-tier system with funding based on pupil units, increased equalization aid & general funding to poor districts; system remained underfunded * Basis of suit: inequity of and reliance on local property taxation * 1987, trial court held in favor of plaintiffs; 1988, Third Court of Appeals reversed decision; 1989, State Supreme Court unanimously reversed appeals court & declared school finance system unconstitutional * State Supreme Court affirmed use of "fiscal neutrality" standard, but qualified: school districts must have "substantially equal access" to similar per-pupil revenues at similar levels of tax effort * State finance program — Foundation School Program — does not cover cost to meet state-mandated minimum requirements, no allotments for school facilities or debt service * State comptroller ordered to stop payments to public schools after court-imposed deadline of May 1, 1990, for legislature to devise plan to reduce wide funding disparities between districts & achieve efficient system — or at least to generate equalization money for 1990-91 school year and then concentrate on permanent solution next legislative session * Legislature & governor failed to reach consensus by May 1 deadline; court appointed "special master" to develop plan in case consensus could not be met * To work within existing resources, "special master" proposed plan to shift state aid from wealthy to poor districts * During fourth special legislative session, SB1 was enacted which revised finance system & addressed other areas of education *(Continued on next page)*

SCHOOL FINANCE LITIGATION CHART

State	Case/Plaintiffs & Procedural History		Ruling	History/Context/Developments
TX	**1989**, St. Supreme Ct. (777 S.W.2d 391) 1988, Ct. of Appeals (761 S.W.2d 859) 1987, St. District Court 1984, filed	**Edgewood Independent School District v. Kirby** (Cont'd from previous page)		* SB1 funded through quarter-cent sales tax increase * SB1: (1) maintained two-tier foundation & guaranteed yield program, (2) revised pupil-weighting system, (3) raised guaranteed yield, (4) changed-pupil count measurement, (5) allotted $4 billion in new funds over 5-year period, (6) allowed "equity standard" to change based on accountable-cost study, (7) addressed issues relating to governance, school-based management, regulation waivers, early childhood * 1991, SB1 challenged by original plaintiffs & overturned by State Supreme Court * Legislature enacted SB351, establishing 188 county education districts (CEDs) — regional agencies with authority to collect and distribute local revenue within CED. * January 1992, SB351 challenged by wealthy districts and overturned by State Supreme Court * Lower court set May 1, 1993 deadline for legislature to produce acceptable remedy or schools would close
WA	**1974**, St. Supreme Ct. (84 Wn.2d 685, 530 P.2d 178) 1972, filed	**Northshore School District. v. Kinnear** Plaintiffs: school districts, students, parents, taxpayers	**Upheld as constitutional** * Five separate opinions filed by 9-member State Supreme Court * Three justices voting to uphold system without reservation found constitutional requirement of "uniform and general system" of education requires only minimum education opportunities * Two concurring justices considered state education aid inadequate; three justices would have found system unconstitutional under education article	* Plaintiffs alleged violation of fiscal neutrality standard and disparities in expenditure, education quality & tax rate * "Uniform & general" system only requires certain minimum educational opportunity * Dissenting judge found state aid to have nonequalizing effects & to violate education clause; laid ground for subsequent lawsuit

SCHOOL FINANCE LITIGATION CHART

State	Case/Plaintiffs & Procedural History		Ruling	History/Context/Developments
WA	1978, St. Supreme Ct. (90 Wn.2d 476, 585 P.2d 71) 1977, St. Superior Ct. 1977, filed	**Seattle School District No. 1 of King County v. State** Plaintiffs: 24 school districts, education associations & advocacy groups and others	**Ruled unconstitutional** * Legislature has duty to define "basic education" and make ample provision for its funding by means of regular and dependable tax sources and not special excess levies * Basic education means broad education opportunities needed in contemporary setting to equip children for role as citizens and competitors in labor market and marketplace of ideas	* Plaintiffs contended that 40% of Seattle's education budget depended on passage of annual referendum; without passage, cannot meet state requirements * 1978, Supreme Court upheld trial court's decision declaring school finance system unconstitutional — violated education clause * Supreme Court stated that legislature had duty to define "basic education" & provide for funding through regular & dependable taxes * 1981, plaintiffs filed suit in State Supreme Court claiming state failed to define & fund basic education * Case transferred back to county superior court which ruled "basic education" must include handicapped, bilingual & remedial programs; revenue shortfalls not legitimate excuse for failure to provide adequate funding * State since adopted finance plan relying heavily on state support
WI	**1976**, St. Supreme Ct.	**Buse v. Smith** Plaintiffs: "negative aid" school districts, taxpayers, school board members, parents, residents	**Ruled unconstitutional** * "Negative aid" provision violated uniformity clause of state constitution tax article	* Plaintiffs challenged "negative aid" or "recapture" provision of 1973 School Finance Act * Supreme Court struck down negative-aid provision; violated principle of state constitution in that taxes levied in one district could not be used for direct benefit of other school districts or sole benefit of state

SCHOOL FINANCE LITIGATION CHART

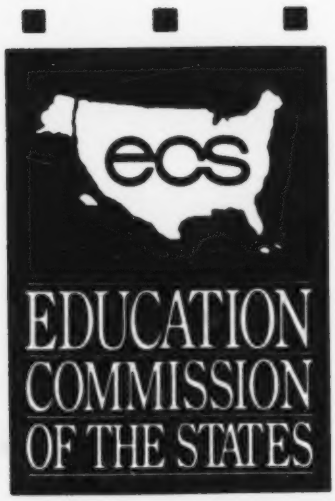
State	Case/Plaintiffs & Procedural History		Ruling	History/Context/Developments
WI	**1989**, St. Supreme Ct. (148 Wis.2d 469, 436 N.W.2d 568) 1986, St. Circuit Ct. 1979, filed	**Kukor v. Grover** Plaintiffs: Milwaukee school district, children and parents	**Upheld as constitutional** * Education provision of state constitution requiring "establishment of district schools, which shall be as nearly uniform as practicable" does not require state to assure each district has sufficient resources to respond to the particular education needs of each child * Equal opportunity for education is a fundamental right but does not mandate absolute equality in per-pupil expenditures or unequal allocation in response to particular needs of each student * Since no complete denial of education opportunity, court applies rational basis standard to spending disparities * Spending disparities justified by preservation of local control	* Plaintiffs contended finance system did not take into account special needs of districts that enroll high percentage of "at-risk" students * Court held that resolving inequities among districts is responsibility of legislature, not courts

SCHOOL FINANCE LITIGATION CHART

State	Case/Plaintiffs & Procedural History		Ruling	History/Context/Developments
WV	**1979**, St. Supreme Ct. (162 W.Va 672, 255 S.E.2d 859) 1977, St. Circuit Court 1975, filed	**Pauley v. Bailey** Plaintiffs: parents & students of Lincoln County	**Ruled unconstitutional** * Wealth as suspect classification * Education fundamental interest for equal protection analysis; legislative classifications creating education inequities should be strictly scrutinized and justified by compelling state interest * Held state constitution's requirement of "thorough and efficient" system of free schools mandates high quality education standards * Defined thorough and efficient mandate in terms of core elements of curriculum, personnel, facilities, materials, equipment * Anticipated that finance system would be found constitutionally deficient	* 1979, State Supreme Court reversed trial court's dismissal of plaintiffs' complaint & remanded case to circuit court * Circuit court of Kanawha County found finance system unconstitutional: — Did not provide equitable & adequate funding for thorough and efficient system — Costs for programs such as special education, remedial education, early childhood must be reflected in funding formula — Inadequacies & inefficiencies (as defined by educational inputs) resulted from finance system & related to varied educational resources & expenditures among counties — Reliance on locally funded excess levies to provide thorough & efficient system unconstitutional — State failed to provide adequate funding for school construction — Taxation & assessment of property is not equal or uniform * Addressed not only financial & educational equity, but quality & substance of education * Court ordered executive & legislative branches to develop master plan to create equitable, high-quality education system in regard to staff & facilities, courses & to correct offering disparities by 1983 * 1983, Master Plan for Education, which addressed roles of state & local education agencies, educational facilities changes in finance system approved by trial court

SCHOOL FINANCE LITIGATION CHART

State	Case/Plaintiffs & Procedural History		Ruling	History/Context/Developments
WY	**1980**, St. Supreme Ct. (606 P.2d 310) 1979, St. District Ct. 1978, filed	**Washakie County School District No. 1 v. Herschler** Plaintiffs: 3 districts & school board members, taxpayers, parents, students	**Ruled unconstitutional** • Supreme Court overturned trial court's dismissal of complaint and held trial not necessary because statutory financing structure inherently defective • Education, fundamental interest; under equal protection provision, state failed to demonstrate compelling interest in perpetuating finance system that results in wealth-related spending disparities • Education article mandating complete and uniform system of public instruction is a specific equal protection requirement applicable to state's school system	• Court supported claim that disparity in financial resources related to quality of education • Court ordered legislature to adopt constitutional system of finance by July 1, 1983 • 1983, revised school funding system, including a recapture provision


ecs
EDUCATION
COMMISSION
OF THE STATES